



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R10-OAR-2018-0061; FRL-9981-08-Region 10]**

## **Air Plan Approval; Washington; Interstate Transport Requirements for the 2015 Ozone NAAQS**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting emissions that will have certain adverse air quality effects in other states. On February 7, 2018, the State of Washington made a submittal to the Environmental Protection Agency (EPA) to address these requirements for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The EPA is proposing to approve the submittal as meeting the requirement that each SIP contain adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

**DATES:** Written comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2018-0061 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose

disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt at (206) 553-0256, or [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA. This supplementary information section is arranged as follows:

## **TABLE OF CONTENTS**

- I. Background
- II. State Submittal
- III. EPA Evaluation
- IV. Proposed Action
- V. Statutory and Executive Order Reviews

### **I. Background**

On October 1, 2015, the EPA promulgated a revision to the ozone NAAQS (2015 ozone NAAQS), lowering the level of both the primary and secondary standards to 0.070 parts per million (ppm).<sup>1</sup> Section 110(a)(1) of the CAA requires states to submit, within 3 years after promulgation of a new or revised standard, SIPs meeting the applicable elements of section

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<sup>1</sup> National Ambient Air Quality Standards for Ozone Final Rule, 80 FR 65292 (October 26, 2015).

110(a)(2).<sup>2</sup> One of these applicable requirements is found in section 110(a)(2)(D)(i), otherwise known as the good neighbor provision, which generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on other states due to interstate transport of pollution. There are four prongs within CAA section 110(a)(2)(D)(i): section 110(a)(2)(D)(i)(I) contains prongs 1 and 2, while section 110(a)(2)(D)(i)(II) includes prongs 3 and 4. This action addresses the first two prongs under section 110(a)(2)(D)(i)(I). Under prongs 1 and 2 of the good neighbor provision, a state's SIP for a new or revised NAAQS must contain adequate provisions prohibiting any source or other type of emissions activity within the state from emitting air pollutants in amounts that will contribute significantly to nonattainment of the NAAQS in another state (prong 1) or from interfering with maintenance of the NAAQS in another state (prong 2). Under section 110(a)(2)(D)(i)(I) of the CAA, the EPA gives independent significance to evaluating prong 1 and prong 2.

We note that the EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to prior ozone NAAQS in several regulatory actions, including the Cross-State Air Pollution Rule (CSAPR), which addressed interstate transport with respect to the 1997 ozone NAAQS as well as the 1997 and 2006 fine particulate matter standards, and the Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (CSAPR Update).<sup>3</sup> These

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<sup>2</sup> SIP revisions that are intended to meet the requirements of section 110(a)(1) and (2) of the CAA are often referred to as infrastructure SIPs and the elements under 110(a)(2) are referred to as infrastructure requirements.

<sup>3</sup> See Cross-State Air Pollution Rule (CSAPR) Final Rule, 76 FR 48208 (August 8, 2011); CSAPR Update for the 2008 Ozone NAAQS (CSAPR Update) Final Rule, 81 FR 74504 (October 26, 2016).

actions only addressed interstate transport in to the eastern United States<sup>4</sup> and did not address the 2015 ozone NAAQS.

Through the development and implementation of CSAPR, the CSAPR Update and previous rulemakings pursuant to the good neighbor provision,<sup>5</sup> the EPA, working in partnership with states, developed the following four-step interstate transport framework to address the requirements of the good neighbor provision for the ozone NAAQS:<sup>6</sup> 1) identify downwind air quality problems; 2) identify upwind states that impact those downwind air quality problems sufficiently such that they are considered “linked” and therefore warrant further review and analysis; 3) identify the emissions reductions necessary (if any), considering cost and air quality factors, to prevent linked upwind states identified in step 2 from contributing significantly to nonattainment or interfering with maintenance of the NAAQS at the locations of the downwind air quality problems; and 4) adopt permanent and enforceable measures needed to achieve those emissions reductions. This four-step framework has also been used to address interstate transport with respect to prior ozone NAAQS in the western United States.<sup>7</sup>

The EPA has released several documents containing information relevant to evaluating interstate transport with respect to the 2015 ozone NAAQS. First, on January 6, 2017, the EPA published a notice of data availability (NODA) with preliminary interstate ozone transport

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<sup>4</sup> For purposes of CSAPR and the CSAPR Update action, the western U.S. (or the West) was considered to consist of the 11 western contiguous states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The eastern U.S. (or the East) was considered to consist of the 37 states east of the 11 western states.

<sup>5</sup> Other rulemakings addressing ozone transport include the NO<sub>x</sub> SIP Call, 63 FR 57356 (October 27, 1998), and the Clean Air Interstate Rule (CAIR), 70 FR 25162 (May 12, 2005).

<sup>6</sup> The four-step interstate framework has also been used to address requirements of the good neighbor provision for some previous particulate matter (PM) NAAQS, including in the western United States. *See, e.g.*, 83 FR 30380 (June 28, 2018).

<sup>7</sup> *See, e.g.*, Approval and Promulgation of Air Quality State Implementation Plans; California; Interstate Transport Requirements for Ozone, Fine Particulate Matter, and Sulfur Dioxide, Proposed Rule, 83 FR 5375, 5376-77 (February 7, 2018).

modeling with projected ozone design values for 2023, on which we requested comment.<sup>8</sup> On October 27, 2017, we released a memorandum (2017 memorandum) containing updated modeling data for 2023, which incorporated changes made in response to comments on the NODA.<sup>9</sup> Although the 2017 memorandum also released data for a 2023 modeling year, we specifically stated that the modeling may be useful for states developing SIPs to address remaining good neighbor obligations for the 2008 ozone NAAQS but did not address the 2015 ozone NAAQS. Finally, on March 27, 2018, we issued a memorandum (2018 memorandum) indicating the same 2023 modeling data released in the 2017 memorandum would also be useful for evaluating potential downwind air quality problems with respect to the 2015 ozone NAAQS (step 1 of the four-step framework). The 2018 memorandum also included newly available contribution modeling results to assist states in evaluating their impact on potential downwind air quality problems (step 2 of the four-step framework) in their efforts to develop good neighbor SIPs for the 2015 ozone NAAQS to address their interstate transport obligations.<sup>10</sup>

The 2018 memorandum describes the process and results of the updated photochemical modeling to project ambient ozone levels for the year 2023. The memorandum explains that the selection of the 2023 analytic year aligns with the 2015 ozone NAAQS attainment year for Moderate nonattainment areas. As described in more detail in the 2017 and 2018 memoranda, the EPA used photochemical air quality modeling to project ozone concentrations at air quality monitoring sites to 2023 and estimated state-by-state ozone contributions to those 2023

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<sup>8</sup> See Notice of Availability of the Environmental Protection Agency's Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone National Ambient Air Quality Standard (NAAQS), 82 FR 1733 (January 6, 2017).

<sup>9</sup> See Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), October 27, 2017.

<sup>10</sup> See Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), March 27, 2018.

concentrations. This modeling used the Comprehensive Air Quality Model with Extensions (CAMx version 6.40) to model average and maximum design values in 2023 in order to identify potential nonattainment and maintenance receptors with respect to the 2015 ozone NAAQS. The memorandum presents the design values in two ways: first, following the EPA's historic "3 x 3" approach to evaluating all sites, and second, following the modified approach for coastal monitoring sites in which "overwater" modeling data were not included in the calculation of future year design values.

For purposes of identifying potential nonattainment and maintenance receptors in 2023, the EPA applied the same approach used in the CSAPR Update, wherein the EPA considered a combination of monitoring data and modeling projections to identify monitoring sites that are projected to have problems attaining or maintaining the NAAQS. Specifically, the EPA identified nonattainment receptors as those monitoring sites with current measured values exceeding the NAAQS that also have projected (i.e., in 2023) average design values exceeding the NAAQS. The EPA identified maintenance receptors as those monitoring sites with maximum design values exceeding the NAAQS. This included sites with current measured values below the NAAQS with projected average and maximum design values exceeding the NAAQS, and monitoring sites with projected average design values below the NAAQS but with projected maximum design values exceeding the NAAQS. The EPA included the design values and monitoring data for all monitoring sites projected to be potential nonattainment or maintenance receptors based on the updated 2023 modeling in Attachment B to the 2018 memorandum.

After identifying potential downwind nonattainment and maintenance sites, the EPA next performed nationwide, state-level ozone source-apportionment modeling to estimate the expected contribution to these nonattainment and maintenance sites from each state (excluding

Alaska and Hawaii). The EPA performed air quality model runs for a modeling domain that covers the 48 contiguous United States and adjacent portions of Canada and Mexico. The EPA included contribution information resulting from the source-apportionment modeling in Attachment C to the 2018 memorandum.

In the CSAPR and the CSAPR Update, the EPA used a threshold of one percent of the NAAQS to determine whether a given upwind state was “linked” at step 2 of the four-step framework and would therefore contribute to downwind nonattainment and maintenance sites (also known as receptors) identified in step 1. If a state’s impact did not exceed the one percent threshold, the upwind state was not “linked” to a downwind air quality problem, and the EPA therefore concluded the state will not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in the downwind states. However, if a state’s impact exceeded the one percent threshold, the state’s emissions were further evaluated in step 3, taking into account both air quality and cost considerations, to determine what, if any, emissions reductions might be necessary to address the good neighbor provision. The EPA has not determined what an appropriate threshold would be for identifying at step 2 of the framework whether an upwind state is linked, and therefore contributes to a downwind air quality problem with respect to the 2015 ozone NAAQS. However, as discussed in more detail below, the EPA is using a similar preliminary approach for the 2015 ozone NAAQS in reviewing Washington’s SIP.

For more specific information on the modeling and analysis, please see 2017 and 2018 memoranda, the Notice of Data Availability for the preliminary interstate transport assessment, and the supporting technical documents included in the docket for this action.

While the 2018 memorandum presented information regarding the EPA’s latest analysis of ozone transport following the approaches the EPA has taken in prior regional rulemaking

actions, the EPA has not made any final determinations regarding how states should identify downwind receptors with respect to the 2015 ozone NAAQS at step 1 of the four-step framework, or what threshold should be used to identify “linked” upwind states at step 2. Rather, the EPA noted that states have flexibility in developing their own SIPs to follow somewhat different analytical approaches than the EPA, so long as their chosen approach has an adequate technical justification and is consistent with the requirements of the CAA. The 2018 memorandum therefore included as Attachment A a preliminary list of potential flexibilities that the EPA concluded may warrant further discussion as states develop good neighbor SIPs addressing the 2015 ozone NAAQS. In presenting the list, the EPA did not make any determination whether the potential flexibilities are consistent with the CAA nor did the EPA specifically recommend any particular approach.

## **II. State Submittal**

On February 7, 2018, Washington submitted a SIP revision addressing the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 ozone NAAQS. Washington relied upon the EPA’s preliminary photochemical air quality modeling for the 2015 ozone NAAQS, contained in the January 6, 2017 NODA discussed above, which was the most current data available at the time of Washington’s submittal. Washington reviewed the EPA’s preliminary 2023 modeling, determined that the future year projections are appropriate, and concurred with the EPA’s preliminary photochemical modeling results, which indicate that Washington’s largest contribution to potential downwind nonattainment and maintenance sites would be 0.15 ppb and 0.11 ppb, respectively. Washington compared these values to a screening threshold of 0.70 ppb, representing one percent of the 2015 ozone NAAQS, and concluded that



emissions from Washington sources will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

### **III. EPA Evaluation**

As previously discussed, the 2018 memorandum is the most up-to-date information the EPA has developed to inform our analysis of upwind state linkages to downwind air quality problems. The 2018 memorandum identifies potential downwind nonattainment and maintenance receptors, using the definitions applied in the CSAPR Update. Relevant here, the 2018 memorandum identifies 56 potential nonattainment and maintenance receptors in the West in Arizona (2), California (49), and Colorado (5).<sup>11</sup> The 2018 memorandum also provides contribution data regarding the impact of other states on the potential receptors. Although the EPA has not identified a specific threshold for identifying contribution at step 2 for the 2015 ozone NAAQS, for purposes of evaluating Washington's 2015 ozone NAAQS interstate transport SIP submittal, we are proposing that at least where a state's contributions are less than one percent to downwind nonattainment and maintenance sites, it is reasonable to conclude the state's impact is not a contribution. While the EPA has indicated in Attachment A to the 2018 memorandum that states may consider alternative thresholds for identifying states that will contribute to downwind air quality problems – so long as the alternative threshold is technically justified – the EPA believes it is reasonable to continue to conclude that states with an impact below a threshold of one percent of the NAAQS will not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in any other state. This is consistent

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<sup>11</sup> As discussed above, the EPA has indicated that states may have flexibilities to follow a different analytic approach to evaluating interstate transport, including the identification of downwind air quality problems. Because the EPA is concluding that Washington will have an insignificant impact on any potential receptors identified in its analysis, it need not definitively determine whether these areas should be treated as receptors for the 2015 ozone standard.

with our prior action on Washington's SIP with respect to the 2008 ozone NAAQS and with the EPA's approach to both the 1997 and 2008 ozone NAAQS in CSAPR and the CSAPR Update.<sup>12</sup>

The EPA's updated 2023 modeling discussed in the 2018 memorandum indicates that Washington's largest contributions to any potential downwind nonattainment and maintenance receptor in the West are 0.20 ppb and 0.16 ppb, respectively.<sup>13</sup> These values are below a one percent screening threshold of 0.70 ppb, and as a result, identify no linkages between Washington and 2023 downwind potential nonattainment and maintenance sites. Washington's projected contribution to potential receptors in the East is even lower. Accordingly, we propose to conclude that emissions from Washington will not contribute to these potential receptors, and thus, the state will not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in any other state.

We also note that the EPA has assessed potential transport to the Shoshone-Bannock Tribes of the Fort Hall Reservation in southeast Idaho, which the EPA approved to be treated as an affected downwind state for CAA sections 110(a)(2)(D) and 126. While the tribes do not operate an ozone monitor, the nearest ozone monitors to Fort Hall Reservation are in Ada County, Idaho; Boise area (AQS site IDs 160010010 and 160010017) and Butte County, Idaho; Idaho Falls (AQS site ID 160230101). Past and present design values for ozone are complete,

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<sup>12</sup> 80 FR 77578 (December 15, 2015).

<sup>13</sup> The EPA's analysis indicates specifically that Washington will have a 0.20 ppb impact at the potential nonattainment receptor in Sacramento, California (60670012), which has a projected average design value of 74.5 ppb, a maximum design value of 75.9 ppb, and a 2014-2016 design value of 83 ppb. The EPA's analysis further indicates that Washington will have a 0.16 ppb impact at the potential maintenance receptor in Tulare, California (61072002), which has which has a projected average design value of 68.9 ppb, a maximum design value of 71.4 ppb, and a 2014-2016 design value of 80 ppb. We note that the updated methodology slightly increased Washington's modeled contribution to the projected nonattainment and maintenance receptors compared to the preliminary photochemical modeling, but, as described in this action, remain at a contribution level of less than one percent of the 2015 ozone NAAQS.

valid and below the current standard. The EPA's modeled 2023 average and maximum design values suggest these ozone concentrations will continue to decline. We therefore propose to find that it is reasonable to conclude that emissions from Washington will not contribute significantly to nonattainment or interfere with maintenance of the 2015 ozone NAAQS at the Fort Hall Reservation. A memorandum summarizing our evaluation can be found in the docket for this action.

#### **IV. Proposed Action**

As discussed in Section II, Washington concluded that emissions from the state will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state. The EPA's updated modeling, discussed in Section III confirms this finding. We are proposing to approve the Washington SIP as meeting CAA section 110(a)(2)(D)(i)(I) requirements for the 2015 ozone NAAQS. The EPA is requesting comments on the proposed approval.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In

those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 11, 2018.

Chris Hladick,  
Regional Administrator,  
Region 10.

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